

## **REMARKS**

In the Office Action dated November 15, 2006, claims 1-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Koperda et al. This rejection is respectfully traversed for the following reasons.

In applying the teachings of the Koperda et al reference against the subject matter of the claims of the present application, the Examiner is apparently equating the levels or tiers of service that are described in the Koperda et al reference as corresponding to the "usage status" in the subject matter disclosed and claimed in the present application. For the reasons discussed below, Applicant submits that equating these different concepts is not reasonable and a person of ordinary skill in the field of data communication would not do so.

The Koperda et al system and method, as explained in the abstract, are for the purpose of providing flexible billing in a cable environment. Obviously the billing is dependent on a total amount of usage over time that a subscriber or user consumes, as well as being dependent on the aforementioned levels or tiers of usage, with higher levels or tiers requiring higher monetary charges. As noted at the end of the abstract in Koperda et al, the amount of network resources that are consumed may be expressed in terms of the amount of data transmitted or the connect time of a network access device to the network.

In more detail, in the Summary Of The Invention section of the Koperda et al reference, bridging columns 3 and 4, it is stated that various characteristics of historical usage of individual subscribers are identified and collected. A profile for each subscriber is then generated that can be used to determine the type of service or level of service that will be offered to a particular subscriber, or group of

subscribers. As noted above, however, the overall purpose of the system and method disclosed in the Koperda et al reference is for billing (invoicing) control. Since an invoice can only be generated on the basis of services consumed by a subscriber in the past, or possibly advance billing for predicted services that are expected to be consumed by the subscriber in the future, the billing is not based, and cannot be based, on a monitoring of monitoring usage or attempted usage of the system by a subscriber that is occurring at any one point in time. Billing is only meaningful with regard to services that have been rendered in the past over a predetermined time or, if pre-payment is involved, for services that will be rendered over a predetermined future time duration. A bill cannot be rendered, because a charge cannot be ascertained, for something that is occurring at a particular point in time.

The subject matter disclosed and claimed in the present application, as described in the introductory portion of the present specification, is for the purpose of avoiding conflicts that arise when a telecommunication line is shared by multiple users. For that purpose, unlike for the billing purposes disclosed in the Koperda et al reference, it is extremely relevant to know what is happening on the shared transmission line at any particular point in time. Specifically, it is important to know whether one of the multiple users is currently using, or is currently attempting to use, the shared line, because this then determines how, or even if, a connection set-up can be made for another of the multiple users.

The independent claims of the application have been amended to clarify this point, to make clear that the monitoring that takes place is monitoring of an electrical signal in the shared transmission line and that a usage status is identified from this


electrical signal that indicates an *occurring* usage or an *occurring* attempt at usage of the transmission line by one of the multiple users. The setup for another of the multiple users is then determined from usage status information that is dependent on this usage status.

As noted above, the data that are collected in the Koperda et al method and system for the purpose of billing are all historical data, and future set-ups may be determined based on this historical data. The Koperda et al reference does not disclose determining a usage status from an *occurring* event and conforming the set-up to that *occurring* event. In the Koperda et al reference, it is meaningful only to collect a history of events that have occurred in the past, and to control billing based on that historical information. Since the problem of conflicts between multiple users of a shared transmission line to which the subject matter of the present application is directed, exists at the immediate point in time at which two of the multiple users are making use of, or are trying to make use of, the shared transmission line, the use of historical information of the type collected in the Koperda et al reference would provide no solution to that problem.

Moreover, with regard to suppressing the set-up of a connection, or interrupting the use of the shared telecommunication line, as set forth in claims 2, 5, 8, 10 and 12, it appears that the only event that can prevent a connection from being made in the Koperda et al reference is the absence of an agreement or contract with a particular subscriber. There is no disclosure in the Koperda et al reference to suppress a connection, or interrupt a connection, based on the aforementioned collected historical data. Therefore, this constitutes a separate argument in support of the patentability of the aforementioned dependent claims.

All claims of the application are therefore submitted to be in condition for allowance, and early reconsideration of the application is respectfully requested.

Submitted by,



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